IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE EIGHTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 7641 of 1999

Between:

1 The Divisional Manager, Girijan Co-operative Corporation Ltd.,
Rajahmundry Division, Danavaipeta, Rajahmundry,
now shifted to Rampachodavaram, East Godavari District.
2 The Managing Director, Girijan Co-operative Corporation Ltd.,
Visakhapatnam.

... PETITIONERS.

AND

1 Penugonda Prakash Archibala, S/o Prakasam,
r/o Hampa Yerrmpalem, Gokavaram Mandal, East Godavari District.
2 Assistant Commissioner of Labour, Authority under Section 48 of

A.P. Shops and Establishments Act, 1988,
Rajahmundry, East Godavari District.

.....RESPONDENTS.

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction in the nature of Certiorari declaring the order of the 2nd respondent dated 10.2.1999 made in appeal No.5/98 without jurisdiction and set aside the same,

Counsel for the Petitioners: MR.N.SRIDHAR REDDY
Counsel for the Respondent No.1: MR. B.NAGESWRA RAO.
Counsel for the Respondent No.2: GP FOR LABOUR

The Court made the following :

ORDER:

Heard both sides. The petitioners herein seek to assail the orders passed in appeal by the second respondent herein as against the orders of the primary authority setting aside the orders of dismissal.

The main contention urged on behalf of the petitioner is that the primary authorities have no jurisdiction more so in view of the fact that the petitioner-Corporation is wholly a State owned. Admittedly, the said plea is not raised by the petitioner either of the stages. Further, the petitioner has also got remedy of appeal under Section 48(3) of the Shops and Establishments Act, 1988 wherein he can as well raise all the questions which can be gone into on merits both on facts and law. In the circumstances, I do not find any justification to interdict in exercise of powers under Article 226 of the Constitution of India.

The writ petition is dismissed with liberty to the petitioner to file further appeal under the aforesaid provision and raise all such questions, which can be considered on merits in accordance with law. The petitioner-Corporation shall file such appeal within a period of four weeks from today and the same shall be disposed of within a period of two months thereafter after giving notice to both the sides. It is needless to mention that having regard to the subsistence of Stay all along, the same shall continue to remain pending disposal of the appeal.

B. PRAKASH RAO, J

18th January 2005.

DRK/CHVN.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER.

To

1 Assistant Commissioner of Labour, Authority under Section 48 of

A.P. Shops and Establishments Act, 1988,
Rajahmundry, East Godavari District.

2 Two CCs to the G.P. for Labour, High Court of A.P., High Court buildings, Hyderabad (o.u.t.).

3 Two CD copies.